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July 19, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

HAND DELIVERED

Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.,
Washington, D.C. 20554

Re: WT Docket No. 99-168

Dear Ms. Salas:

Transmitted herewith, on behalf of Alaskan Choice Television (Alaskan Choice), are an original and four copies of its comments on the Notice of Proposed Rulemaking, WT Docket No. 99-168. An additional copy is also being hand delivered to Mr. Stan Wiggins at the Wireless Bureau, Policy Division.

In the event of any questions concerning this matter, please communicate with this office.

Very Truly Yours,



Julie A. Barrie

Enclosure

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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of

Service Rules for the
746-764 and 776-794 MHz
Bands, and Revisions to
Part 27 of the
Commission's Rules

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WT Docket No. 99-168

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COMMENTS OF ALASKAN CHOICE TELEVISION

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COMMENTS OF ALASKAN CHOICE TELEVISION

Alaskan Choice Television ("Alaskan Choice") files herewith, by its attorneys, its comments with respect to the Notice of Proposed Rulemaking¹ in the above-captioned proceeding ("the NPRM".)

I. BACKGROUND

Alaskan Choice is an innovator in the newest tradition of difficult-to-define communications providers. While technically relying upon low power television ("LPTV") stations for provision of service, Alaskan Choice offers subscription multi channel video service to customers in Fairbanks and Anchorage, Alaska, some of whom are under served. It is the only local competition to wireline cable television in many communities as satellite service to Alaska is hindered by Alaska's terrain and northerly location. Alaskan Choice provides great benefit to its communities in a way that is difficult to categorize by

¹ In The Matter of Service Rules for the 746-764 and 776-794 MHz Bands, Notice of Proposed Rulemaking, WT Docket No. 99-168 (rel. June 3, 1999).

traditional FCC regulatory divisions. The NPRM shows the FCC's understanding of the difficulties of categorizing new, different services like that of Alaskan Choice.

Alaskan Choice has provided multi channel video/subscription television service to the communities and outlying areas of Anchorage and Fairbanks since January 1996. (See Section 73.642 of the Commission's Rules.) Those services are carried on LPTV stations licensed to Goldbelt, Inc. ("Goldbelt"), an Alaskan Native Corporation. On June 25, 1998, the FCC awarded Goldbelt authority to convert the operation of those LPTV stations from analogue to digital so that the system as a whole could provide 80 or more video channels and high-speed Internet access to its subscribers (see attached letter). Alaskan Choice is in the process of aggressively building this system. Comparable to other multi channel video services, some of these channels will rebroadcast local television stations, but other channels will provide more traditional cable services, such as Discovery Channel, via satellite, and other offerings, which also would not be retransmissions of local television stations or "local broadcasting." To a significant extent, the LPTV stations will not be filling the traditional role of such stations, by neither "originating" local broadcasts nor retransmitting them.

Thus, Alaskan Choice's digital systems will not fall easily into any of the service categories traditionally used for FCC

regulation; the service is not carried by traditional broadcast or retransmission of local television stations, but by wireless transmission. It will transmit programming typical of a Direct Broadcast Satellite system or a cable service, but it will also offer Internet access, which is not yet under any regulatory umbrella. So is it under Part 27 for wireless? Part 76 for cable? Part 73 or 74 for mass media? Or some as-yet-not-created name? The FCC has recognized the difficulty of regulating and categorizing services like that of Alaskan Choice, and Alaskan Choice encourages the Commission to apply a flexible approach, rather than arbitrarily assigning Part 27, 73, 74 or 76.

II. The Flexible Approach Proposed By The Commission is Best for the Public and Best for the Service Providers.

Alaskan Choice supports the Commission's overall decision to promote maximum flexibility for channels 60-62 and 65-67 (the "Channels") as the most feasible form of regulation. Alaskan Choice believes, as the Commission does, that by creating an entrepreneurial and wide-ranging approach to this allocation, the Commission will yield the most diverse and beneficial use of the spectrum.

Alaskan Choice agrees that licensees should determine the services they will provide within the assigned spectrum and

geographic areas, as proposed by the Commission.² Flexible commercial use of the spectrum is in the public interest³. Licensees should not have to describe the services they intend to provide, but instead should designate their regulatory status.⁴ Such flexibility will yield competition and consumer benefit.

Furthermore, the Commission should consider adopting procedures which would foster new and innovative uses of the frequencies, and which would increase services to under served communities, such as Alaskan Choice's services in Alaska. Preferences for small businesses, minorities, women and under served communities would be in the public interest.

III. The Commission Should Consider The Service Provided, and Not The Regulatory Status of The Facilities.

Consistent with its theme of flexibility and promoting expansive use of this spectrum, the Commission should choose the regulatory scheme for each licensee based upon how the Channels are actually used. For instance, an existing licensee may be licensed as a cable carrier, but use the new spectrum to provide wireless services; we urge the Commission under these

² The NPRM, ¶ 10.

³ The NPRM, ¶ 12.

⁴ The NPRM, ¶ 25.

circumstances to regulate the relevant Channels under Rules applied to a wireless carrier.

IV. Bidding Credits Are Appropriate.

Consistent with Alaskan Choice's previous suggestions, and in the interest of spurring competition, innovations and new entry, the Commission should apply existing bidding credits to auctions for the Channels. This approach has served the public interest in other auction settings and should do so again.

Conclusion

For the foregoing reasons, Alaskan Choice respectfully urges the Commission to adopt flexible regulation of spectrum and licensees.

Respectfully submitted,

ALASKAN CHOICE TELEVISION

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